IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY & INTESTATE JURISDICTION

NOTICE OF MOTION NO. 2082 OF 2004

IN

SUIT NO. 15 OF 2003

IN

TESTAMENTARY PETITION NO. 64 OF 2003

Adi alias Ardeshir Irani ...Plaintiff.

Vs.

S. Poonekar & Anr. ...Defendants.

Sanjay Kothari i/b. Mulla & Mulla for the defendants.
Plaintiffs avocates absent.

CORAM : S.K.Shah, J.
DATE : December 23, 2004.

P.C.:-

1. The learned Counsel for the defendants submits that he has given notice to the learned Counsel for the Petitioner/Plaintiffs. Notice is received by Harshad & Co., advocates of the petitioner/Plaintif. The learned Counsel for the defendants also submits that after serving this notice, a telegraphic notice was also given. However, neither the Plaintiff nor any advocate for the plaintiff, is present.

2. On 25.11.2004, the Order for appointment of Court Receiver was passed. However at the request of the learned Counsel for the Petitioner, the direction to the Court Receiver to take possession of the property, was stayed for a period of two weeks. The learned Counsel for the Petitioner got the time of two weeks extended and now it stands extended till 13.1.2005.

3. The learned Counsel for the defendants, however, submits that the Petitioner has filed an Appeal bearing No. 818 of 2004 and in that Appeal, the Plaintiff had filed an application for stay of the Order passed by this Court. However, no Order was passed thereon. The learned Counsel for the defendants, therefore, submits that there is no protection to the estate and the Plaintiffs are likely to dispose of the property.

4. Under the circumstances ad interim relief in terms of prayer clause (b) as against the Plaintiffs is granted till 13.1.2005.

5. Parties to act on an Ordinary copy of this Order, duly authenticated by the Associate of this Court.

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[S.K.Shah, J.]